

Introduced by Senators Dunn, Burton, Haynes, and MonteithFebruary 23, 2001

An act to amend Sections 65587 and 65589.3 of the Government Code, relating to general plans, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 910, as introduced, Dunn. General plans: housing elements.

(1) Existing law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. A city, county, a city and county is required to submit a draft housing element or draft amendment to its housing element to the Department of Housing and Community Development for a determination of whether the draft complies with state law governing housing elements. Existing law, until June 30, 2009, exempts any local government within the jurisdiction of the San Diego Association of Governments from this review requirement if it instead submits to the department with its housing element a self-certification of compliance with state law. In an action brought by any party to review the conformity of a housing element with applicable state law, a court review shall extend to whether the housing element, or portion thereof or revision thereto, substantially complies with that law.

This bill would require a court, on a finding that there is not substantial compliance, to award the plaintiff reasonable attorney's fees and costs and to levy a penalty not to exceed \$1,000 per unit of the total projected housing need for the jurisdiction. The bill would provide that all penalties shall accrue to the Housing Rehabilitation Loan Fund. Because all money in this fund is continuously appropriated to the



Department of Housing and Community Development for specified purposes, this bill would make an appropriation.

(2) Existing law provides that, in any action filed on or after January 1, 1991, challenging the validity of a housing element, there shall be a rebuttable presumption of the validity of the element or amendment if the Department of Housing and Community Development has found that the element or amendment substantially complies with the applicable law.

This bill would provide that, in any action filed on or after January 1, 2002, challenging the validity of a housing element, there shall be a rebuttable presumption of nonvalidity of the element or amendment if the department has found that the element or amendment does not substantially comply.

This bill would declare the intent of the Legislature to withhold unidentified state funding from any city, county, or city and county that does not have a housing element in substantial compliance with state law and to redistribute the money to those cities, counties, or cities and counties whose housing elements are in compliance. The bill would state that, for the purposes of this provision, an authorized self-certification of a housing element shall be deemed to have been approved by the department.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65587 of the Government Code is
2 amended to read:
3 65587. (a) Each city, county, or city and county shall bring its
4 housing element, as required by subdivision (c) of Section 65302,
5 into conformity with the requirements of this article on or before
6 October 1, 1981, and the deadlines set by Section 65588. Except
7 as specifically provided in subdivision (b) of Section 65361, the
8 Director of Planning and Research shall not grant an extension of
9 time from these requirements.
10 (b) Any action brought by any interested party to review the
11 conformity with the provisions of this article of any housing
12 element or portion thereof or revision thereto shall be brought
13 pursuant to Section 1085 of the Code of Civil Procedure; the
14 court's review of compliance with the provisions of this article



1 shall extend to whether the housing element or portion thereof or
2 revision thereto substantially complies with the requirements of
3 this article. *If a court finds that any housing element or portion*
4 *thereof does not substantially comply with the requirements of this*
5 *article, the court, in addition to any other remedy allowed by law,*
6 *shall award the plaintiff reasonable attorney's fees and costs and*
7 *shall levy a penalty not to exceed one thousand dollars (\$1,000)*
8 *per unit of the total projected housing need for the jurisdiction as*
9 *identified pursuant to Section 65584. Any penalties shall accrue*
10 *to the Housing Rehabilitation Loan Fund established by Section*
11 *50661 of the Health and Safety Code.*

12 (c) If a court finds that an action of a city, county, or city and
13 county, which is required to be consistent with its general plan,
14 does not comply with its housing element, the city, county, or city
15 and county shall bring its action into compliance within 60 days.
16 However, the court shall retain jurisdiction throughout the period
17 for compliance to enforce its decision. Upon the court's
18 determination that the 60-day period for compliance would place
19 an undue hardship on the city, county, or city and county, the court
20 may extend the time period for compliance by an additional 60
21 days.

22 SEC. 2. Section 65589.3 of the Government Code is amended
23 to read:

24 65589.3. (a) In any action filed on or after January 1, 1991,
25 taken to challenge the validity of a housing element, there shall be
26 a rebuttable presumption of the validity of the element or
27 amendment if, pursuant to Section 65585, the department has
28 found that the element or amendment substantially complies with
29 the requirements of this article.

30 (b) *In any action filed on or after January 1, 2002, taken to*
31 *challenge the validity of a housing element, there shall be a*
32 *rebuttable presumption of the nonvalidity of the element or*
33 *amendment if, pursuant to Section 65585, the department has*
34 *found that the element or amendment does not substantially*
35 *comply with the requirements of this article.*

36 SEC. 3. It is the intent of the Legislature that a percentage of
37 an ongoing source of state funding shall be withheld from any city,
38 county, or city and county that does not have an adopted housing
39 element that the Department of Housing and Community
40 Development has determined pursuant to Section 65585 of the



1 Government Code to be in substantial compliance with the
2 requirements of Article 10.6 (commencing with Section 65580) of
3 Chapter 3 of Division 1 of Title 7 of the Government Code. It is
4 further the intent of the Legislature to redistribute in the following
5 month any withheld funds among all cities, counties, and cities and
6 counties whose housing elements the department has determined
7 to be in compliance with state law. For the purposes of this section,
8 a housing element that has been self-certified pursuant to Section
9 65585.1 of the Government Code shall be deemed to have been
10 approved by the department.

